Flotsam and Jetsam

GAINES

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Flotsam and Jetsam

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Preface

I JOURNEYED thro' the realms of law,
And, as I wandered on, I saw
A gentle Muse who said to me
That actually she could not see
Why lawyers should not paint in rhyme
The glories of the law sublime.
I told her that in law's domain
Was naught to catch the poet's strain,
That in the realms of legal lore,
The wings of fancy fail to soar,
And that there was no citadel
Of law up where the Muses dwell.
She said from text-books and the code
She'd not expect a lyric ode,
Nor from the digest I'd prepare
An epic or an idyl rare;
But yet she thought I might betimes
Indite some pointed, rambling rhymes.
I looked again, and then I saw
She was the comic Muse of law,
And so, methought, perhaps I might
Some sort of limping lines indite,

Which, tho' they'd shamble 'cross the sheet,
They'd amble on poetic feet.
So, with the comic Muse a friend,
These modest verses I have penn'd;
And, tho' Parnassus shines afar,
I trust a kind, indulgent bar
May in these lines some merit see
And come along and smile with me.

Flotsam and Jetsam

The Limb of the Law

The law; it hath honored us, may we honor it.
— DANIEL WEBSTER.

THEMIS, stern goddess, who presides o'er the law,
Thy inspiring aid we invoke,
While we try to portray, in a rhythmical lay,
The disciples of Blackstone and Coke.
If now we would sing of a common-place thing,
As the rose, the brook or the stars;
Or if we craved light to help us indite
A Homeric epic to Mars;
Or if we would tell of the dearest gazelle,
Or the houri with the eyes of the fawn,
Or if we would trace on the beautiful face
Of a maid the blush of the dawn;—
With a stroke of the pen we would dash it off then,
Thy aid we ne'er would invoke,
Nor that thou descend from Olympus to lend
Inspiration to the poetic stroke;
But when we would draw the limb of the law,
And paint him in rhythm and rhyme,

When we would portray, in a poetic way,
A theme so grand and sublime,
Then we would invoke the Olympian folk,
The muses and gods galore,
Our pen to inspire with a poetic fire,
And a fund of mystical lore.
While in prose we describe the brief-making tribe,
In language quite pithy and terse,
We all truly need inspiration indeed,
To put the attorney in verse.

The young lawyer dreams — how real it seems —
And he conscientiously feels,
That it will not be long ere clients will throng,
Fairly treading on each other's heels;
His future he views in roseate hues,
In visions of greatness he sees,
His opponents in court made but the sport
Of his incontrovertible pleas.
But when he has waited for a practice belated,
And the cold world passes him by,
When his prospects he views thro' the dumps and the blues,
And he thinks it all o'er with a sigh, —
Then he forms the conclusion that the law's a delusion,
Of which the youth should beware,
A siren that sings of the loveliest things,
But proves a fraud and a snare;

But just when it seems that all of his dreams
Of success have proven a lie,
This votary of Themis — now *in extremis* —
Sees a rift in the clouded sky;
An advancing foot-fall, like an angelic call,
Strikes plain on his listening ear,
A litigant astray seems coming his way —
Ye gods! a client draws near!
As when drifting afloat from a harbor remote,
The sport of the wind and the wave,
A small bark and frail sees a rescuing sail
Hast'ning most opportunely to save;
So, with thrilling emotion, in a clientless ocean,
The young lawyer, (far from the land),
Is made to rejoice at the sound of a voice,
And the touch of a client's hand.
But we here draw the veil over every detail —
We are truly in conscience bound
Not a thing to reveal, as we certainly feel
We are treading on sacred ground;
For whom could you find that would be so unkind,
Yea — who would be so base,
Or so very rude as to dare to intrude
On the lawyer's very first case?
If there *was* a flaw in his view of the law, —
Which was most probably true, —
Is that any reason why professional treason
Should expose it to the vulgar view?

No! no! — the mistakes which the young lawyer makes,
We will write them all in the sand,
And the next wave that sweeps from the Lethean deeps
Will leave not a trace on the strand.

We do not maintain that it's always so plain
That the lawyer's without any flaw,
But 'twould be hard to find any one more maligned
Than this self-same limb of the law.
For instance, we cite what Coleridge did write:
When of business there was a great dearth,
The devil once took a journey to look
At his rich, fertile farm, the earth;
That while on his journey, he saw an attorney
Kill a viper hard by a stable,
And he smiled this to find, as it put him in mind
Of Cain and his brother Abel.
This cannot but be a libel *per se*,
As you will plainly perceive,
When the attorney "raised Cain" with the viper 'twas plain
A reminder of Adam and Eve.
And it shows, in our view, that the Scriptures are true,
Wherein it is solemnly said,
Yea, gravely decreed, that the woman's seed
Shall bruise the serpent's head;

And we think that the act is proof of the fact
That the lawyer is ever the foe
Of vipers and snakes, of humbugs and fakes,
And of all that is vulgar and low.

And some people quote what the poet once wrote:
"Let us kill all the lawyers," to a man,
And they say that Shakespeare thus makes it quite clear
What he thinks of the brief-making clan;
But if you will turn to the page, you will learn
To the lawyer high praise is there paid,
For the utterance was made by a pal of Jack Cade,
When the plans for rebellion were laid;
For it's plain as the day where the obstacles lay —
That no insurrection could thrive,
That rebellion must fail and the law must prevail,
Where there was a lawyer alive.
And so you will find that those who're inclined
To commit some dastardly deed,
Would kill, if they durst, all the lawyers at first,
And then 'twould be easy indeed.

There's a story one hears, coming down the years,
That one of the ancient bards,
Aristophanes, used words like these:
"The lawyers are all blackguards."
We shall have to admit that the word that was writ
By the poet was *Eurokroptoi*,

And it can't be denied that the term was applied
To the lawyers, the *Sunagoroi;*
But if you would seek the truth from the Greek,
You will find that the humorous bard
Shows he never had heard any thing so absurd
As a lawyer's being blackguard.
The thoughts he expressed are made but a test,
To show that, if proven, the claim
That the lawyer's blackguard, it wouldn't be hard
To prove all the world is the same.

Some are wont to relate how Peter the Great,
The redoubtable Muscovite Czar,
When stopping awhile in the British Isle,
And viewing the English bar,
Was heard to declare, with an arrogant air,
What he alleged to be true,
That in all the state of Peter the Great,
Of lawyers there were but two;
And he further remarked that when he debarked
In the land of the Slav again,
'Twas his firm, settled will to instantly kill
One of these lawyers twain.
And now when today we take a survey
Of the land of the Russian Czar,
See anarchy's reign, with its riotous train
Or murder, oppression and war;

When so plainly we see such disorders can be,
And that lawlessness has such a growth,
We cannot but know from the *status in quo*,
That Peter killed the lawyers both.

. . . . . .

Some people there are who are wont to declare
That the lawyer's life's one full of ease,
That all of his thought is expended on naught
But charging exhorbitant fees;
And when they would draw the limb of the law,
He appears with an indolent air,
With a typewriter clerk to do all the work,
As he lolls in his easy chair;
And to make more complete the picture, his feet
The top of the desk reveals,—
An ingenious way for his brains, they say,
To trickle from his hoisted heels.
But we wish to remark to him who'd embark
On life's calm, untroubled sea,
Under blue vaulted skies, where no storms will arise
To drive him to windward or lee,
He should not spread his sails where the furious gales
Of the law make the ocean to roar,
Where the wild tempest beats on the voyaging fleets,
Driving many a wreck ashore;

For the lawyer's life is one full of strife,
Of alternate ups and downs,
Dame fortune today drives dull care away,
And tomorrow she gloomily frowns;
For it's not alone with troubles his own,
That the lawyer has ever to deal,
But he also bears the burdens and cares
Of others with equal zeal.
His work is not done with the set of the sun,
But oft in the still of the night,
When the countless stars peep and the world is asleep,
He is working with all his might;
And meanwhile the client, on his lawyer reliant,
Unconcernedly, carelessly sleeps,
Snoring out the night till the morning light
Into his chamber peeps.
And when all is done and the battle is won,
And the lawyer makes a modest charge,
This very same client, in a manner defiant,
Says the fee is outrageously large!
Our clients, 'tis true, can never see through
The question of fees complex,
And that as to size the maxim applies:
De minimis non curat lex.

Then some people claim, emphasizing the same,
But naught of the truth discerning,

That in regions below, in the realms of Pluto,
Some legal lights are burning;
And some intimate that when a just fate
Consigns them to that jurisdiction,
They'd dispute with Pluto the *status in quo*,
And probably try an eviction.

This count we deny, and by way of reply,
Say it takes no proof to show,
As it's self-evident, no lawyer's content
In an adverse court below.
But suppose that we take, just for argument's sake,
A case, and let us admit,
That the lawyer should stray from the narrow, straight way,
Into the Bottomless Pit;
That in regions below, in the realms of Pluto,
The lawyer should have to be tried,
Whether Heaven he'd gain or in Hades remain —
A question for the court to decide.
Then methinks that I see the Judges all three
The Hades judiciary guiding,
Jove's sons, Æacus and Rhadamanthus,
And Minos, Chief Justice, presiding;
And there is also, cruel old Pluto,
In his flaming red robes of state,
And Proserpine too, and the whole Harpy crew,
While Cerberus is guarding the gate.

Then Minos, C. J., methinks I hear say
To the lawyer thus arraigned below:
"You are doomed here to stay forever and aye
In the realms of King Pluto,
Unless you can show to the Court here below,
Beyond a reasonable doubt,
And make it appear that you don't belong here,
The Court cannot let you out."

It seems then to me I plainly can see
The lawyer slowly arise,
His manner as free as in Hell it could be,
And addresses the Court thus-wise:
"If the learned Court please, I am not Hercules,
And hence cannot Cerberus steal,
Nor can I aspire with an Orphean lyre
To move you to grant my appeal;
But I shall undertake, with the law's help, to make
It plain to an unbiased soul,
So it will appear clear that I don't belong here,
In this unpleasant, sulphurous hole;
It cannot appear that I am domiciled here,
With no *animo manendi*,
And when I'm away, surely no one will say,
There's an *animus revertendi:*
By all which is meant I'm a non-resident,
And it doth fully appear

Conclusively that I've no habitat
Nor permanent residence here."
Then, methinks, with a frown, old Pluto comes down
From his throne, and says: "O Judge,
The lawyer clan spoils many a plan
Of mine, and I owe them a grudge;
And now when at last one of them's fast
In my clutches, I will not let go,
And the Court will, I pray, let me fully repay
Old scores with the lawyer below."
Says the learned C. J., in a judicial way:
"By the law it is made to appear
Very clearly, I wot, that the lawyer has not
A permanent residence here;
But 'tis perfectly plain that his plea here is vain,
For in Hades where we're employed,
What does not agree with Pluto's decree,
Is unconstitutional and void;
And since it is clear that the lawyer has e'er
Been opposed to infernal laws,
Our judgment is that a *ne exeat*
Will issue at once in the cause;
And it is decreed now that the Court will allow
No appeal from the final decree,
And the lawyer here may make arrangements to stay
Through the countless ages to be."
It is very well known that the lawyer is prone,
(It grieves me sore to report,)

When the judgment's adverse, to pour out a curse
On the head of the ignorant Court;
And, I opine, he would rather incline,
In the face of so flagrant a case,
To use not a few of epithets new
E'en to Pluto and those of his place,
But instead he'd say: "Now, since the Court will allow
No appeal — lest justice miscarry —
I shall make use, in fine, of the right that is mine —
And go up on a *certiorari*."

The Judge sits alone 'pon his great white throne;
It is the judgment day;
He weighs the acts and He sifts the facts,
And methinks I hear Him say:
"When first the universe was made,
I looked and I plainly saw,
I'd made, alas! a shapeless mass,
And then I made the law;
And since that time the law sublime
Is made the only source,
Wherein resides the power that guides
The planets in their course;
By law, the countless, circling suns
That gild the face of night
Sweep on apace thro' boundless space,
And twinkle in their flight;

The pendent world as it is whirl'd,
With other worlds thro' space,
As on it rolls, by law it holds
Its orbit and its place:
Likewise for man was made a plan,
By law he should provide
To regulate th' affairs of state,
And the social world to guide;
And it was plain that to maintain
The law inviolate,
There should be then some learned men,
And the lawyer was create;
The lawyer-clan is part of the plan,
The fixed aim and design,
'Tis the lawyer who must carry through
The purposes divine;
Should the limb of the law his hand withdraw,
Right-rule would be but a dream,
The social fabric totter and fall,
And anarchy reign supreme;
The lawyer e'er, it is quite clear,
To his calling has been true,
As he viewed the right, done with his might,
What his Maker would have him do;
Protecting the cause of the helpless poor,
And those to wrong a prey;
For glittering gold he never sold
Nor bartered their rights away;

With an open hand for charity,
Sympathetic and sincere,
He helped the weak, and from the cheek
Of sorrow kissed the tear;
Sweet mercy pleads his gentle deeds
Of love at heaven's gates,
The mercy which he to others showed,
That mercy for him awaits;
Upon the altar of duty he laid
His talents, and he has won
The verdict which e'en the angels crave:
'*Limb of the Law, well done.*'
Therefore, the writ from the bottomless pit
Is granted without restriction,
The record will show that the Court below
Is without any jurisdiction."

. . . . . .

The fiat fast flies through Paradise,
Borne on an angel's wing,
As the lawyer waits at the pearly gates,
They on their hinges swing;
He is made acquaint with Peter, the Saint,
Who the new arrival greets —
The limb of the law, *sans* a fault or a flaw,
Is walking the golden streets.

Fink *v.* Evans

12 *Pickle* (95 Tenn.) 413.

Of horn and morn and hark and bark,
And echo's answering sound,
All poets' wit hath ever writ
In dog'rel verse of hounds.
—HOOD.

'TWAS a starlit, bright November night,
And the moon, with its shimmering beams,
Rose over the hills of old McMinn,
Silv'ring the woods and streams.
'Twas an ideal night for the chase of the fox
In the Mouse-Creek Country round,
And a single blast on the hunter's horn
Calls yelping forth many a hound:
Then away they fly, with a hue and cry,
Through wood, o'er hill and dale,
Till the baying sound from a distant hound
Announces the strike of the trail;
Then vet'ran and pup take the leader's call up,
Till the cry of the howling pack,
On the wings of the night, brings the hunter delight,
For the dogs are now hot on the track.

But Reynard was ever a sly old fox,
And he deals in deepest disguise;
In the midst of the chase, an arch smile on his face,
He takes to the railroad ties.
The west-bound fast express was due —
Which was probably known to the fox —
Who now leaves his trail and the scent on the rail,
Just to get those dogs in a box.

So hound after hound, with his nose to the ground,
As the train thunders down the grade,
Along the track flies, fairly leaping the ties,
Not suspecting the trap that was laid.
O, horror to relate! 'tis as certain as fate,
There'll be a collision, unless
One gets off the track, or the other goes back,
The dogs or the fast express.
With dogged, unyielding persistence, the hounds
Dispute the right to the track,
Till along come the cars, like the mad rush of Mars,
And kill about half of the pack.

Now the hunter who owned those valuable dogs —
Worth more because dead, I think —
Was sorely aggrieved at the treatment received,
So he sued the receiver — Fink.

Grave, serious, difficult questions of law
Rose before the honorable courts;
Fierce the battle was waged by the counsel engaged,
As we gather from Pickle's Reports.
One very vexed question arose in the case,
Whether, under Tennessee laws,
Considering his acts and all of the facts,
The fox was the proximate cause;
For it may be admitted that, if as a fact,
The fox had not gone on the track,
Those valuable curs, it surely appears,
Would not have been lost from the pack.

Then another difficult question arose
In the struggle to get redress,
In which of them lay the clear right of way,
The dogs or the fast express?
The cars had the right to the railroad track,
This point was perfectly plain,
But the right of the pack on the fox's track
Clearly clashed with the right of train.
If a track's on a track, and a train and a pack
Have both of them rights of way,
Then the question of right becomes one of might,
So all the authorities say.

But what was the value of the dogs deceased?
A question of dire import,

And one that was vexing and very perplexing,
And that worried the honorable court.
The proof of the plaintiff established the fact
That the dogs were young and fleet,
And that while ev'ry hound was good "all round,"
For the possum they couldn't be beat.
The plaintiff himself, when he got on the stand,
Told the twelve as they sat in the box,
That a hound, as a rule, was worth more than a mule—
That is — for the chase of the fox.
The defendant made light of the proof thus adduced,
As foolish, absurd and thin,
And he proved without doubt that hounds were without
Any value in old McMinn.

But the court, considering all of the facts,
Held the hounds did not exercise
That care and forethought which the law says they ought,
Thus causing their own demise;
That a prudent hound-dog, in a case like this,
Would employ his gumption and brain,
When the whistle would blow he wouldn't be slow
In giving away to the train.

When the plaintiff was told the result of the suit,
And he figured the costs and the fees,
It is thought then and there the circumambient air
Felt quite a perceptible breeze.

When further informed, in a technical way,
That the learned Court, the *Curia*,
Had decided his case by applying the phrase
Of *damnum absque injuria*,
It is possibly true that he said that he knew
No Latin — and couldn't translate,
But he thought that he heard a strong English word
In the Latin which settled his fate;
To his feelings long pent he would have to give vent,
And he did it without any qualm,
For his feelings were best and most clearly expressed
In that Latin's first syllable — *damn*.

Confession and Avoidance

IT created a sensation in the Darktown congregation,
When Ezekiel said he wished to be a saint;
And the members all asserted that "when 'Zekiel got converted,
'Twas enough to make the very Devil faint."
But they took him on probation to accomplish his salvation,
They exhorted him a better life to lead;
Notwithstanding this, howe'er, he was summoned to appear
To the charge of dancing — deadly sin — to plead.

"I iz come befo' de Session, fo' to make you my confession,"
Said Ezekiel, with a solemn countenance;
"I distinctly recollects all dem solemn, wahnin' texts,
Dat you coted 'bout de gamblin' an' de dance;
How dat when I got de 'ligion, show' I mustn't cut de pigeon-
Wing no mo'; an' dat dancin', 'twas de Debbil's own;
Dat '*Come seben, come eleben*,' wouldn't take me up to Hebben —
An' I vow'd dat I would leabe 'em all alone.

"Zi wuz stridin' an' a-reachin', an a-comin' to de preachin',
In a mighty hurry, night or two ago,
On a sudden I wuz facin' an open doo' adjacen',
Down dar in de Pickaninny Row;
Zi wuz in de doo' a-glancin', I cud see dey's gwyne to dancin',
(An' my bredren, all dem gals dey fahly shine!) —
As dey wuz 'bout to begin it, jes' allows I'll stop a minute,
As dey passes up an' down de dancin' line.

"Den de fiddle 'gins to singin' an' de banjo 'gins to ringin',
An' de promptah, he shouts, '*S'lute an' balance fo*',
An' dem niggahs go paradin' wid dey pahtnah's promonadin',
An' dey chassees back and foth across de flo;
As de promptah calls de figgahs, like a wave uv sea dem niggahs
Sweeps across an' back an' thru so vehey neat,
Sho — I tells you, pahson, truly, dat I gits somewhat unruly,
An' I feels a sudden fidgets in ma feet.

"Den dey wahms up to de dancin', all retirin' an' advancin',
An' dey stahts into de Ole Virginny Reel,

Den dey 'gins to dance de hoedown, growin' gradual to de breakdown —
(You can imagine, bredren, how dis niggah feel!)
Den de music libely growin', all de instruments a-goin',
An' de ragtime floats upon de air so sweet,
Dat dis niggah den detected dat his nerves dey 'come affected,
An' he can't control de fidgets in his feet.

"How it happens I'se no notion, but dis coon wuz soon in motion,
When de promptah, he calls out, *'Gran' right an' lef'*,
I wuz in among dem niggahs, an' a-dancin' all de figgahs,
(For in trufe, no coon can dance 'em like myse'f);
Yes, I danced de heel-an' toe, double shufflin', 'cross de flo',
Jig and juba, clog, an' den de highlan' fling;
Den I jin'd in de cotillion — an', pahson, 'twuz wuth a million
Jes' to see de way I cut de pigeon-wing!

"But my bredren uv de Session, in considerin' dis confession,
I des wahnts to tell you what de lawyahs say;
Dat no man can be convicted and no punishment inflicted,
Whar de irresist'ble impulse holds de sway —

Now, I hopes you ain't gwyne doubt it, when I say I'se
sorry 'bout it,
Yes, suhs, dreffle sorry, bredren, I repeat;
But I'se not guilty, I'se insistin', kase no possible re-
sistin'
Can ovahcome de fidgets in de feet."

The State *v.* Linkhaw

(69 N. C. 214.)

An ignorant, noteless, timeless, tuneless fellow.
—Byron.

"FOR disturbance of the public worship,"
So the indictment read,
"Against the peace and dignity
Of the state," it further said.
To which indictment there was filed
Defendant's plea, to wit:
That said Linkhaw had broke no law,
And he should go acquit.

The crime so charged was that the accused,
Lacking musical education,
Sang psalm and hymn with such a vim
He disturbed the congregation;
That when the choir and ohters all,
('Twas one of the devil's wiles),
Had ceased to sing, still Linkhaw's voice
Went sounding down the aisles.

And it was charged and duly proved,
That when Linkhaw elected

To sing at all, the people all
Were curiously affected;
The frivolous folk thought it a joke,
And laughed and were quite gay,
While the devout were so put out
And mad — they could not pray;
The parson, it was duly proved,
Would not give out the hymn,
For fear 'twould draw from Bill Linkhaw
The horrid voice of him;
The presiding elder, too, 'twas said,
Most positively refused
To come, for fear that he would hear
The voice of the accused.

The defendant proved himself devout,
And that, though sinful clay,
Himself he found in conscience bound,
To sing as well as pray;
Moreover, the constitution,
Aside from moral qualms,
Did guarantee his worship free
In singing hymns and psalms.

The jury found against the accused,
That he, in his devotions,
Lest he disturb, must gently curb
His musical emotions;

That he his worship could maintain,
  But, like the curfew's ring,
Though he could shout and be devout,
  That Linkhaw *must not sing*.

But 'twas held by the court of last resort,
  To which the case then went,
That in Linkhaw the judges saw
  No criminal intent;
And that, although the proof did show
  That Linkhaw's voice was awful,
The judges found no valid ground
  For holding it unlawful.

And so in North Carolina now,
  Regardless of church or creed,
The right inalienable to sing
  Is fully guaranteed;
And from the Smokies to the Sea,
  Wherever the church bells chime,
The people cling to the right to sing,
  Without committing a crime.

The Opinion

THERE is silence in the courtroom,
And the lawyers in array,
Sitting quietly expectant,
For it is opinion day;
All the lawyers look so anxious
And so nervous-like beside,
You'd conjecture from their faces,
That the bar was being tried;
Dignified and proud, his Honor,
With a supercilious smile,
Looks relentless on his victims,
As he fingers with the file;
Then he launches his opinion
In the case of plaintiff Doe,
'Gainst my client, the defendant,
By the name of Richard Roe.

First, methinks I have detected
Intimations — just a trace —
Of a leaning toward defendant,
As his Honor states the case;
As he threads the tangled mazes,
Of the facts and of the law,

Pointing out the plaintiff's laches,
Picking here and there a flaw,
Then my nerves become more quiet,
And a smile creeps o'er my face,
For I'm feeling fairly sanguine
That I may have won the case;
But then, just as I'm feeling
That I am about to get
A decision, then his Honor
Thunders forth the words: *"But yet —"*

What was sunshine now is shadow,
And the smile fades from my face,
As his Honor, growing serious,
Freely comments on the case;
As he quotes from the citations,
And the evidence he weighs,
'Tween the plaintiff and defendant,
Like a pendulum he sways;
With the seeming vacillations,
Hope and prospects rise and fall,
I'm so flustered with the fidgets,
I can scarce sit still at all;
Then his Honor summarizes,
And, discussing the relief,
Calls me learned, able counsel,
And he compliments my brief;

Me he lauds and eulogizes,
With such kindliness and grace,
That my spirits sink within me,
For I know I've lost the case.

There's a law of compensation,
Which the Courts all kindly heed,
Just a sort of consolation,
Tho' it's very small indeed;
Ever in the Court's opinions
You will find it in its place —
One attorney gets the praises,
While the other wins the case.

The Lawyer's Lachrymal Rights

Ferguson v. *Moore*, 98 Tenn. 342.

Interdum lachrymae pondera vocis habent.
—OVID.

IN THE court below, as the records will show,
The plaintiff a verdict obtained,
On both of the counts for goodly amounts,
And of this the defendant complained;
And in order to try to at once rectify
The judgment he had to face,
And to plainly show the errors below,
The defendant appealed the case.

In the record we find this error assigned:
In a fit of inordinate zeal,
The attorney shed tears before the twelve peers,
As he made an impassioned appeal:
That the tears that were shed had surely misled
The jury as they sat in their place,
Who with prejudiced eye, and judgment awry,
Had mistaken the right of the case;
That the jury was swayed — not by arguments made,
According to the facts and the laws,
But by sob and the sigh and the moistened eye,
And the Court should reverse the cause.

The question, in short, which the Honorable Court
Was asked to consider and try,
As the records recite, was the disputed right
Of attorneys-at-law to cry:
And we are advised that the Court recognized
The importance of the question involved,
As in all Tennessee the whole bar would be
Affected by the way it was solved.
We beg to commend to every friend
Of the bar the Court's review
Of the point in dispute, which arose in the suit,
And the inferences which they drew.
"Some lawyers there are (and they are not very rare),"
So the opinion of the Court recites,
"Who, with flowers and frills and rhetorical thrills,
Indulge in fanciful flights;
There are some who use each of the figures of speech,
Quoting Shakespeare, Byron and Burns,
And the jury first gropes thro' figures and tropes,
Then an adverse verdict returns;
And some, we confess, seek hard to impress
By noise and gesticulation,
They rant and they roar, with really more
Of lungs than argumentation;
And when the Court sees such capers as these,
Is there really a reason why,
In impassioned appeals, if the lawyer so feels,
He should not be allowed to cry?

So the Court decides, after hearing both sides,
And all of the cases they cite,
When the advocate cries, he doth but exercise
His constitutional right;
And the Court further finds, if the lawyer inclines,
He may plaintively indulge in a sigh,
And if he commands his lachrymal glands,
He may slightly moisten the eye:
Or if he elect to try to affect
The jury so they will feel
And be made to see, as clearly as he,
The force of his earnest appeal,
He may then shed a clear, round, beautiful tear,
Like the morning dew-drop on the rose,
And let it beguile the jury the while
It dribbles from his classical nose;
Or, if he desire, and the occasion require,
In the matter of a grievous wrong,
Down his innocent cheek a diminutive creek
May appealingly trickle along:
Or, if he should feel in the melting mood,
Like Niobe or Rachel, he may,
With none to restrain, shed his tears like the rain,
And weep his great soul away:
With the flow of his tears no court interferes,
Except he must not comport
Himself in a way to impede or delay
The business and work of the court."

Now the lawyer's elate in the Volunteer State,
Having passed a critical crisis,
And exults and delights that his lachrymal rights
Are finally *stare decisis.*

In Totidem Verbis

THE defendant was charged with larceny,
And, to mitigate the crime,
He put in a plea averring that he
Was very drunk at the time.
Policeman Pat, who made the arrest,
Was put on the stand to show
The statements which the prisoner made
Regarding his *status quo*.
The Judge, examining the witness, asked;
"What was it the prisoner said?"
"He said he was drunk," was Pat's reply,
Reproachfully shaking his head.
"You do not comprehend, I fear,"
Said the Judge, as grave as a monk,
"He did not use the pronoun *he*,
And didn't say *he was drunk*."
"O yes he did," persisted Pat,
"As sure as you are born,
The prisoner said that he was drunk,
He frankly acknowledged *the corn*."
"You don't understand," explained the Judge,
"My meaning you have confused;

Now, didn't he say: '*I am drunk* —,
Aren't those the words he used?"
"No — no," said Pat, "I wouldn't stand that,
I'd hit the spalpeen skunk,
And the lick you bet he wouldn't forget,
If he'd said your Honor was drunk."
"O, pshaw! O, pshaw!" cried th' attorney at law,
"What is it that ails your brain?
His Honor means did the prisoner say,
'*I am drunk*' — now that is plain."
"Well now," said Pat, "when it comes to that,
I would not surely swear,
But if he said that you was drunk,
I'm sure I did not hear."
"The Court's desire," said the lawyer with ire,
Giving the witness a scowl and frown,
"Is to get in fact, the words exact,
Preserving the used pronoun;
He wants *verbatim et literatim*,
The prisoner's own words, to wit:
First person *I* — not second, *thou*,
Nor third, *he*, *she* or *it:*
Do not evade the question put,
From which till now you've shrunk;
Now, on your oath — did he not say,
In haec verba, I am drunk?"
"No — no," said Pat, with an epithet,
"Condamit, he didn't betray it

That you was drunk, but now I think,
Seeing that you are given to drink,
That you was drunk and are so yet,
But I swear he *did not say it.*"

A Case "In Point"

Rapid Transit Co. v. *Dew*, 100 Tenn. 317.

'TWAS Autumn — killing frosts had stripped
The leaves from shrub and tree;
'Twas the season known as nutting time
In Middle Tennessee;
The sun was sinking o'er the hill,
The shadows flitted like
Fantastic sprites from Fairyland,
Out on the Charlotte pike;
Far out of town to where the woods
And pasture lands began,
Along the route of the Charlotte pike,
The Rapid Transit ran.
The plaintiff, with his hunting dog,
Laden with nuts so brown,
From woodlands and from nutting groves
Was coming back to town;
With panting sides and lolling tongue,
And never looking back,
The plaintiff's dog essayed to cross
The Rapid Transit track,

When just midway — O, cruel fate!
The dog became aware
Of scents indicative of birds
Lading the evening air;
He paus'd — and lifting one fore-foot,
And stiffening out his tail,
He snuffed and *pointed* with his nose,
As if he scented quail;
He stood as if bewitched, entranced,
Without a stir or motion,
As still as is "a painted ship
Upon a painted ocean."

The car was coming down the track—
The witnesses all state
That it was whirling toward the dog
At a very rapid rate;
Unless it stopped, or unless the dog
Should give way to the car,
They would collide — and thus make work
For members of the bar;
The canine took a dogged stand,
And little did he reck
The coming Rapid Transit car,
Like the boy on the burning deck;
Ancestral instincts, stronger far
Than fear, held free control,

The sweet, delicious scent of birds,
Ravish'd his canine soul.
There was a collision — sad to tell —
Which fate would not avert;
The dog received a fatal wound,
The car escaped unhurt.

Was this the last of the injury
And wrong that had been done?
O, no, for with the dog's decease,
The trouble had just begun.
The plaintiff sued defendant for
The sum he said it owed,
The value of the dog it killed,
Out on the Charlotte road.

Defendant made a bold defense,
And sought to win the case,
By showing that dogs are valueless,
And most of them are base;
And, further, at the common law,
As all the courts decide,
'Twas not a theft to steal a dog,
Tho' 'twas to steal his hide;
The inference from all of which
The Court would promptly draw,
Is that dead dogs are better far
Than live ones, at the law.

The plaintiff, Dew, denied that dogs
Are worthless, mean or base,
And, as a proof of what he plead,
He cited many a case.
He pointed to the snow-clad Alps,
Where travellers in the snows
Are rescued by the St. Bernard
As everybody knows;
He said the Indian welcomes death,
Because he thinks his hound
Will meet him in the Great Beyond,
The Happy Hunting Ground;
He pictured wife and children dear,
From harm and danger kept
By the faithful watch-dog sentinel,
Guarding them while they slept;
Many a time in the silent night,
When dangers haunt the dark,
The timid, sinking heart is cheered,
To hear the watch-dog bark.
He showed where Alva's bloody men,
One night on murder bent,
Stole forth to where the Prince of Orange
Was sleeping in his tent;
The sentries were surprised and taken,
The guards, detailed to keep,
Protect and shield the royal Prince,
Were lying fast asleep;

But there was one within the tent
  Watchful and wide awake;
A sentinel that ne'er was known
  His duty to forsake.
A little dog gave the alarm,
  And woke the Prince — who then
Fled and escaped a cruel death
  From Alva's bloody men;
And thus the course of history,
  Affecting the human race,
Was changed by a faithful, little dog,
  Now stigmatized as base!

Defendant claimed that plaintiff's dog
  Was base-born, and the strains
Of common, cur-like, mongrel blood
  Went coursing thro' his veins;
That there was "terrier" blood in him,
  Of proof there was no lack,
This fact was made conclusive when
  He *tarried* on the track.

The members of the bar well know,
  And none will controvert,
The fact that none but blooded dogs
  Are ever badly hurt;
And in this case the dog of Dew,
  Supporting the plaintiff's claim,

Proved no exception to the rule,
But emphasized the same.
The dog deceased exhibited
A noble pedigree;
In canine circles, it was plain,
He was an F. F. T.;
His sire was "Tribulation I,"
In field-trials ever afront,
In bench-shows *facile princeps*, and
The champion of many a hunt;
His grandsire was the King of dogs,
"Imperial Beppo III,"
No better dog e'er set a hare,
Or e'er retrieved a bird;
In him there flowed the best blue blood
Of "Champion Lass of Bow,"
From her, no doubt, there is derived
That classic word *bowwow;*
And every dog that opes his mouth
Must pay a tribute to
Th' ancestress of the plaintiff's dog,
Whose royal blood was blue;
For many generations back
He traced his pedigree,
With English dog-nobility
Upon his family tree.
The dog deceased was handsome, fast,
And the records all disclose,

He had the widest sort of range,
And the keenest sort of nose;
He'd had distemper, and this fact,
The witnesses all swore,
Did not detract from him at all,
But made him worth the more.

The Court held, on defendant's part,
Of care there was a lack,
And that the plaintiff's dog was not
A trespasser on the track,
And, further, that the Court would not
The course of justice clog,
E'en tho' they viewed the record from
The *stand-point* of the dog.

Some points decided by the Court
Our wonderment command,
To wit: That when a setter "sets,"
He is decreed to "stand";
And when he's "standing," strange to say,
'Tis just as surely true,
Suspending all of physic's laws,
That dog is "setting" too;
A paradox — the reason gropes
In intellectual fog,
And yet the "point" is very clear,
When one observes the dog.

There was another subtle point:—
Whether, under the laws,
The scent of birds was not at least
A quasi-producing cause;
But the honorable Court refused to pass
Upon the point, we note,
Because, no doubt, they reasoned that
The scent was too remote.

The jury gave the plaintiff all
He claimed on every count,
The Court most properly refused
To *curtail* the amount;
And thus the ancient common law
Was changed and modified,
And now at law a living dog
Is worth more than his hide.
While in this case there's not a trace
Of poetry refined,
'Tis yet most fitting it should be
In dog-gerel enshrined.

Sometimes the lawyer's sore perplexed,
When coming face to face,
With no authorities at all
To bolster up his case;
To such we ope the door of hope,
And offer full relief,

And nevermore need he present
In court a caseless brief.
No matter if both law and facts
Are wholly out of joint,
The *Dew* case may be cited as
A case always "*in point.*"

Ezekiel's Alibi

Oh, Sammy, Sammy, vy wornt there a alleybi?
— Tony Weller.

NOW, accordin' to dis 'ditement,
As I heahs it read to me,
I has stole a watah-milyun,
Which dey say am lahceny;
Dat I also tuk a roostah,
(So I understan' it's writ),
Likewise sundry 'n divahs pullets,
On a sartin time, to wit;

"An, yo' Honah axes 'Zekiel
Des to state, in his own way,
'Bout de chawges brought agin him,
Eb'rything he hab to say;
So dis niggah, as requested,
'Fo' de jury an' de jedge,
Say he sartin am not guilty,
As de 'ditement dar allege.

"Ef Ole Zeke wah stealin' chickens,
On a sartin time, to wit,

Den he wah not pullin' milyuns,
  Sho — dis here you mus' admit;
'N' ef he *on dat time, to wit,*
  (To de Cou't I does appeal),
Wah a-takin' watah-milyuns,
  He wah on no chicken steal;

"Foh it is a fac', yo' Honah,
  Dat de milyun, full ob juice,
Nevah perch hisse'f wid pullets,
  Way up on de chicken-roos';
An' de chicken say it isn't
  Des ezacly in his line
Foh to be diskivered growin'
  On de watah-milyun vine;

"So, it 'pears to me, yo' Honah,
  When dis 'ditement chawge so loose,
Dat dis naggah's in de milyun-patch,
  He is at de chicken-roos';
When it say he's stealin' chickens,
  Sho — it's plain dat he's not nigh,
Kaze he's den among de milyun vines —
  So I pleads de alibi."

Liberal Construction

Baker v. *Jacobs*, 64 Vermont 197.

IT WAS in the state where the Green Mountains are,
And the dappl'd-veined marbles abound,
That it was ordained when a party had gained
A verdict the jury had found,
If the party successful, during the term,
At which the case was tried,
Should treat a juror to "victuals or drink,"
They must set the verdict aside.

In a judicial bout, the plaintiff won out,
And, thanking his lucky stars,
And thinking the jury their duty had done,
He treated them to cigars.
So the question arose, as the records disclose,
As to whether the law was broke,
And whether the act 'gainst "victuals and drink"
Included as well a smoke.

The plaintiff averr'd that it was absurd
To attempt to remotely link
A thing that indeed is naught but a weed
With such as "victuals and drink";

He further averr'd that *drink* is a word
That everywhere is described
By all who have writ thereon that it
Is something to be imbibed;
He said that to yoke "victuals" with smoke
Was surely a queer conceit;
That he had been taught, and that he yet thought
That victuals were something to eat.
He pictured the lad — his first smoke he had —
His face as pale as a sheet,
Telling stern papa and his fond mamma
It was only the victuals he'd eat;
Then a picture he drew of men in the pew
Repeating the Apostles' Creed,
And, altho' devout, emitting about
A very strong scent of the weed:
And he said he opined if ladies refined,
To show the disgust they felt,
Should apply vinaigrettes and mild epithets,
They'd be told it was "victual" they smelt.
"What might we expect would be the effect,"
The attorney for the plaintiff said,
"If it were decreed by the Court that the weed
Is *victuals* like meat and bread?"
"And a drink must be a liquid," said he,
"And the law would be but a joke,
If the Court should decree that a drink could be
Construed as a sort of a smoke."

But the learned, dignified, honorable Court,
When they came the case to decide,
Held the law had been broke by a treat to a smoke,
And they set the verdict aside.
They held it a fact that when the said act
Was passed — most certainly
To "drink tobacco" was a phrase well known,
As common as drinking of tea;
That "drinking tobacco" was no new thing,
As the poets were well aware,
And they cited Spenser, and Dryden and Pope,
And old Ben Jonson rare.
The Court next told of a poet of old,
Who wrote with a masterly pen:
"Thus thinke then drinke tobacco" — they said
This showed it was common then;
They quoted Joachin Miller also,
Where he says: "I drink the winds" —
If true, then indeed you can drink of the weed,
And they said, — "The Court so finds."
So it now matters not just exactly what
Other honorable Courts may think,
In the Green Mountain land the Courts understand,
And they hold that *tobacco's a drink*.

Wenninger *v.* Mitchell

122 *S. W. Rep.* 1130.

Jam protervo
Fronte petit Lalage maritum.

—HORACE.

IN THE state of Missouri, where they "have to be shown,"
Dwelt the plaintiff, a widow, forlorn and alone;
So lonely indeed that she sought for a mate
To give her relief from the widowhood state;
She was prompted, therefore, to at once advertise
For a man, (for an Adam to share paradise).

Way up in the state where flows the broad Platte,
Dwelt an unmarried man, but "a man for a' that."
While gloomily brooding o'er a bachelor's fate
He saw the lone widow's "ad" for a mate;
Whereupon his emotions were fully astir, —
As the record is silent we cannot aver
Whether Cupid let fly a love-dealing dart,
Or whether 'twas Mammon affected his heart;
At least he was willing, like Barkis, and glad
To treat with the widow — so he answered the "ad."

Now, though the lone plaintiff was of husband bereft,
Her sorrow was softened by the money he left,
By means of all which the widow was able
To buy a half interest in a livery stable.
This she bought from defendant, to whom there was paid
The money which Skinner, the husband, had made.

The record discloses, so we understand,
That the widow could not write a very plain hand,
And so she employed the defendant to write
Some letters of love that would tend to excite
The man by the Platte, who, 'twas hoped, would be pleased
To fill the void made by Skinner, deceased;
And she promised to give the defendant, we note,
Her half of the stable for the letters he wrote.

In short, the widow was willing to trade
Her half of the stable for the liveryman's aid
In getting a husband to take Skinner's place —
And we gather from reading the facts of the case,
That she thought it was fair and perfectly right,
(Since the hair of the dog is good for the bite),
That the money of Skinner — degrading pelf —
Should purchase a husband as good as himself.

Vainglorious man, with haughty brow,
Where are your pride and your vanity now!
When it's shown beyond a reasonable doubt
That the women at least have found you out,
And the half of a livery stable can
Be traded off for the average man!

And so it was soon agreed by the twain
That each would the heart of the other enchain,
And with no obstructions to go between,
They would swap their affections "sight unseen."
And these gentle lovers — as lovers ought —
Had two separate souls, but a single thought,
And ere the courting by letter was done
These two loving hearts were beating as one —
One in Nebraska, along by the Platte,
In Missouri the other, going fast pit-a-pat:
And in order to plight her love with a vow,
The widow, together with defendant and frau,
Journeyed to Lincoln where (Skinner forgot!)
She was tightly tied with a nuptial knot.

The pair's honeymoon had scarcely begun
When defendant asked pay for the work he had done;
For the services rendered he asked for a deed
For half of the stable, as they had agreed.
But when the fast fleeting honeymoon waned,
The plaintiff very quickly her reason regained;

The request then received an emphatic dissent
By refusing to pay the defendant a cent;
And the benedict then, and his buxom bride,
Brought suit and they asked the Court to decide
Whether the livery stable as pledged
Should be given up for the service alleged.

We cannot discover, as the record is mute,
The proximate cause for bringing the suit —
Whether the husband was angry and sore
That his value was thought to be nothing more
Than a livery stable — or whether 'twas so
That the widow had doubts of a *quid pro quo*.

The defendant prayed the Court to note
The quality of the letters he wrote;
A fact no one could controvert,
Because of the husband he made profert.
The plaintiff contended the agreement was void
Because of the fact that she had employed
The defendant to get a husband for her,
And she was advised, and so would aver,
That it was against the public good
And the common weal that people should
Attempt by agreement to interfere
With matters that are wholly in Cupid's sphere;
That no valid contract could be made
That contemplated such a vicious trade —

Trafficking in the affairs of the heart,
Like so much merchandise sold in the mart.

The defendant replied that if it were true
That the contract was void — from his point of view,
The plaintiff could not maintain her suit,
Because to her the law would impute
The same moral wrong — and in the same way —
In pari delicto, as the lawyers would say —
That if it was wrong for him to agree
To get her a husband — then certainly she
Was equally guilty — he wished to aver —
In agreeing that he get a husband for her;
That equity would never enforce her demands
Since she came into court with unclean hands.

But the honorable Court, with clear insight,
Gravely decided that the plaintiff was right;
That the consideration agreed to be paid
Was evidence of an unconscionable trade.
That Courts of Justice would surely be mocked,
And the conscience of Courts be sorely shocked,
If the half of a livery stable could be
Passed to defendant by solemn decree
For a consideration so slight — to-wit:
The two short letters defendant had writ.

'Twas further decided — so says the report —
That defendant had really no status in court;
That public policy would never permit
The defendant to get a slight benefit
By the crafty use of a trick or a ruse,
From any agreement that would tend to confuse
The ardent affections, that tenderly touch
The heart, with livery stables and such.
And the Court, moreover, was pleased to decree
That it wasn't considered as *malum in se*
For a widow forlorn, who had been left
Alone in the world — of husband bereft —
To seek in every way that she can
To get for herself another good man.

And so the lone widow a benedict got
And she tied him up tight with a nuptial knot;
And she got, furthermore — as it should have been —
A livery stable to keep him in.

Charging the Jury

UNCLE RASTUS was a J. P.
In the Reconstruction Days,
And he sadly lacked experience
In the courts and in their ways;
When the proof was all completed,
And the arguments were thro',
He was in a vex'd dilemma
As to what was next to do;
Then the lawyer, nudging Rastus,
As *amicus curiae*,
Whispered: "You must charge the jury,
And they must your charge obey."
Uncle Rastus was uneasy
As he shifted in his chair,
And, amid the deathless silence,
Looked the picture of despair;
Glancing nervously about him,
As he slowly scratched his head,
Peering sagely o'er his glasses,
To the jury thus he said:
"Dis here case ain't been much trouble
To de Jestice Cote, an' hence
I jes chawges dis here jury
Only dollar 'n fifty cents."

Jus Mulorum

Mincey v. *Bradburn*, 103 Tenn. 407.

'TWAS in the early autumn time,
The summer's course was run,
And yet there lingered summer days
Beneath September's sun;
'Twas the witching time of the aging year,
And the lazy, whispering winds,
Like the sweet, sad notes of the dying swan,
Went soughing thro' the pines;
The woodlands wore their golden garb,
The fields were russet-brown,
When a mule resolved to leave the farm,
And go to Knoxville town.
The reason why the mule did sigh
And seek for pastures new,
He'd heard, perhaps, in Knoxville streets
The grass luxuriant grew.
And so he went on pleasure bent,
But as he loitered round,
Whom should he meet upon the street
But the keeper of the pound!
The cruel man, for such he was,
With a cold, sardonic smile,

Proceeded to arrest the mule
And put him in durance vile.
The mule, 'tis said, was quite well bred,
And he had never sunk
Low like some men, and was not then
Disorderly nor drunk.
The innocent and harmless mule
Was arrested on the charge
Of breaking a law he never saw
By simply running at large;
And yet at large upon the streets,
Not molested in the least,
Walked many a man more dangerous than
The inoffensive beast.
Were the laws and rules applied to mules
Enforc'd, in all details,
Against the men, we venture, then
'Twould overcrowd the jails.

As in the pound the humble mule
Stood foodless and forlorn,
His soul he sighed to the country-side,
The land of oats and corn;
The dear old farm, the fertile fields,
The meadow-brook — the grass, —
What mem'ries rise to tantalize
A hungry, homesick ass!

As it was true that no one knew
Who owned the mule in pound,
They advertised in the public prints,
But the owner couldn't be found;
The mule himself was criticised,
'Twas claimed he knew quite well
His master's name and his master's crib,
But, mule-like, would not tell;
'Twas said that he was impolite,
(And, possibly, it was true,)
When gruffly he, most positively,
Refused an interview.

The mule was sold for a paltry sum,
Just about the amount of cost,
When the owner came to prove his claim,
And sue for the mule he'd lost.
It seems the mule was advertised
For only two short days,
A time too short, the plaintiff claimed,
To advertise for strays;
And any ordinance of a town,
In this enlightened land,
That fix'd such rules for straying mules,
Was void and could not stand.

In another way, he wished to say,
(The Court should be advised,)

It was quite clear the mule was ne'er
Sufficiently advertised;
'Twas only in the *Knoxville Press*,
And this fact, he was sure,
Upon its face, proclaimed the place
Entirely too obscure.

With subtle thought defendant sought
The issues to befog,
By showing where three days sufficed
To advertise a hog;
He argued, as a precedent,
Citing the hog example,
That, if for hogs three days sufficed,
For mules two days were ample.

But the Court o'erruled defendant's plea,
And settled and fix'd the rule,
That two days time was not enough
To advertise a mule;
And giving way to serious thought,
Indignant, questioned why
There should be one law for the stall,
Another for the sty?
No, no — the strong arm of the law
Effectually would entwine
Around the rights of the humblest mule
As if the mule were swine;

And fain the Court would drop a tear
For the mule, when it was seen,
There ne'er could be posterity
To keep his memory green.

The Court released the baited beast
By solemn grave decree,
And as the stray was led away,
'Tis thought that he was heard to bray:
"Back to the farm for me."

The Law Student's Soliloquy

Legis interpretatio legis vim obtinet.

I HAVE been through the college and the technical
schools,
And somehow, I cannot but feel,
When giving a thought to the things I was taught,
That I surely must know a good deal;
I can write and can speak both Latin and Greek,
The stars and the flowers I know;
Mathematics I've mastered and logic I've learn'd,
And the sciences, too, I trow.
Notwithstanding the knowledge I got at the college,
And despite my master's degree,
It is true, without doubt, — *why* I cannot make out,
The law is a puzzle to me.
I quite understand the tenures of land,
Estates that are *pur autre vie*,
Contingent remainders, estates in tail,
And vested estates in fee;
I can understand, too, and clearly see through
Corporations without any soul,
The Statute De Donis and Shelley's Case,
And the substantive law as a whole;

But when the Courts do begin to construe,
It clouds and befuddles my brain,
There appears not a spark as I grope in the dark,
And I try to see thro' it in vain.
When, for instance, I see pronounced a decree
From the very highest court in the land,
That a "lone widow" can be an "unmarried man,"
I confess that I don't understand;
Then I read from reports of superior courts
Of conservative little Delaware,
Ignoring the rules that I learned at the schools,
That "two boots" don't make "a pair";
From the old Dominion we have this opinion:
Tho' a man has departed this life,
In a learned review, it is held to be true
That the "widow" is the dead man's "wife";
And up in New York (the Empire State),
The Courts (held high in esteem),
With the reasons assigned, most solemnly find
"One horse" is the same as "a team";
And the Courts maintain in the state of Maine,
That under the exemption laws,
An ordinary "pair of work cattle" are
The same as "a bull" that draws;
And by solemn decree in staid Tennessee,
The Courts have settled the rule,
That a single "jackass" of whatever class,
Is an "ox, a horse or a mule."

Yes, a horse is a team, two boots not a pair,
A widow is an unmarried man,
A bull is a yoke, an ass is an ox, —
These decisions I study and scan
From beginning to end, but I can't comprehend,
So there's nothing for me to do
But to certainly show the *status in quo*,
And the phase of the case construe.
There's a simple fact that we cannot combat,
And the Court will judicially know
That a common jackass will frequently pass
For one of the *genus homo;*
And anyone who can't clearly see thro'
Decisions so perfectly plain,
We are bound to conclude (with regrets alas!)
Can't be anything but a dunce or an ass,
With the chances that he's insane.

A Case of Locatio

Moeran v. *N. Y. Poultry and Pet Stock Association* (28 Misc. 537).

THE plaintiff was the owner of a tailless Manx cat,
Which she prized most highly, I ween,
And she doubtless thought that no such Thomas-cat
In Gotham ever was seen;
So she loaned to defendant this wonderful cat
To exhibit in Madison Square,
With poultry, canines, and pets of all kinds —
A sort of a Donnybrook Fair.

But the wily feline promptly begged to decline
To be subject to the public gape,
So his bottomless cage o'er the edge of the stage
He pushed — and made his escape.
With a clamorous shout, the attendants turned out
In pursuit of the cat as he fled,
And they looked everywhere in Madison Square
For the fugitive cat aforesaid;
They looked for his track and they searched every crack
In all of the buildings around,

And then they looked thro' part of Fifth Avenue,
But the cat was not to be found;
For the Manx meanwhile, with a cat-like smile,
Had succeeded in hiding his trail,
For no one could know that he came from the show,
For this cat he carried no tail.

When the plaintiff found out that the cat, without doubt,
Was lost — tho' to memory dear —
She promptly brought suit for the loss of the brute,
And defendant was forced to appear.
The plaintiff proved that to buy such a cat
What a good round sum it would cost,
And proceeded to show, what we very well know,
It's the valuable cat that is lost.
In truth she proved that this particular cat
Had never been known to fail
To win the first prize for beauty and size,
Tho' he hadn't the sign of a tail;
She averred that the Court would judicially know,
In a matter involving felines,
That a cat from the ranks of the marvelous Manx
Was superior to all other kinds;
She would furthermore say that the defendant should pay,
As a matter of justice and right,
Quite a sum, she opined, for her anguish of mind
For Zenda — as the cat was hight;

"E'en now," she exclaimed, "poor Zenda, perhaps,
Is wandering about in the streets,
And wherever viewed is being pursued
By every dog that he meets;
Or what is worse yet, perhaps he has met
A horrible death — and his lot
Is to have been made into sausage for trade
To the wily Chinese on Mott."

"There can be no relief," plead defendant in brief,
"For the very good reason, to wit:
That there is no doubt that the cat was loan'd out,
At the risk of the owner of it."

But the Court held that tho' the contract did show,
A fact to the plaintiff well known,
That the cat was put there in Madison Square
At the risk of the plaintiff alone;
And while (the Court said) against the fact plead
Of proof there was scarcely an atom,
Notwithstanding the plea, it was easy to see
'Twas clearly a case of Lo*cat*um.
So against the bailee there was passed a decree
For the sum of fifty dollars and cost,
Which sum the Court thought the company ought
To pay for the cat that was lost.

The Court's said decree against the bailee
Brought the case to a close — so that
With the lines we have penned we have come to the end
Of the tale of a tailless cat.

Golf *versus* Law

IN THE Court of St. Andrews in the County of Fife,
In the land of the bonny Scot,
There long has been pending, many counsel defending,
A case of some moment, I wot.
In very many places there are ancillary cases,
The style is Golf *versus* Law,
The principles involved have never been solved,
And the case at times looks like a draw.

It seemed at one time, in the dark ages past,
When the lawyers didn't know very much,
That the plaintiff would fail, and the *law* would prevail,
In the days of Lord Eldon — and such;
And, as strong evidence of their ignorance dense,
An item or two will suffice:
Littleton and Coke and other such folk,
Didn't know a "bad pull" from a "slice,"
And as for Lord Eldon, and Mansfield and Brougham,
And Marshall and Chancellor Kent,
With all of their lore, if they'd heard the word "fore,"
They would not have known what it meant.

And O, there is such a tender touch
Of compassion and pity that pall,
When we know it is true that they liv'd their lives thro',
And ne'er knew "Colonel Bogey" at all!
And sorrows there are for the grief-stricken bar,
Sounding the depths of the soul,
To know that they died and to them was denied
The mysteries of the "nineteenth hole."

But times have changed since those dark days,
And they have wrought changes in men,
And the brief-making clan, well up in the van,
Have learned a whole lot since then.
And now, what do we all of us see!
Why, we look at that lawyer askance,
Who is not the source of a learned discourse
On the "grip," the "swing" or the "stance";
And the Judge on the bench — he of the woolsack,
Does he court honor and fame?
If so, would he dare to just sit there,
Knowing naught of the royal game?
Is any judge fit who has to admit
An ignorance of "cleeks" and "mashies"?
Why, there's nothing to do except to construe
Such ignorance culpable laches.
And if any one for an office would run,
Why he can do never a thing,

Unless, as we know, he clearly can show
That he has the right form of a "swing."
And so it would seem that the plaintiff's fond dream
Of success is about to come true,
When we see in the race to its side of the case
All the lawyers, excepting a few.
And the Judge, when he thinks, unconsciously "links"
His thoughts to the plaintiff, herein,
And it then only takes the "pull" that he makes
To assure us the plaintiff will win.

Now someone may say — What's the case anyway?
It may as well be explained,
That lawyer and judge may no longer drudge,
Is the object to be attained.
And the plaintiff, you see, wants a final decree,
To be enforced everywhere,
A decree that will make the attorneys all take
An outing each day in the year.
And it's well here to say there is excellent pay,
The fees which the plaintiff will give,
Will be a vast wealth of pleasure and health,
Which will make it worth while to live:
With such a decree there surely will be
An age without a fleck or a flaw,
When lawyers ('tis clear) will be known everywhere,
As attorneys and golfers-at-law.

The Law of Vagrancy

Jacob Waddel v. *State of Georgia*, 27 Ga. 262.

I live an idle burden to the ground.
—ILIAD.

IT WAS in the Empire State of the South,
The land of the Elberta peach,
Where the soft breezes blow and the watermelons grow,
That defendant committed a breach
Of the law, and the Grand Jury solemnly found,—
Fixing the place and the time,—
That defendant, in the face of the laws of the state,
Had committed a heinous crime:
That against the dignity of the sovereign state,
And the peace of the citizens all,
Defendant had, "*with force and arms*" —
Been doing nothing at all.

The defendant plead the proper pleas,
And made a bold defense,
That according to the charges made,
He was guilty of no offense;
That he would evade the charges made,
Successfully on the ground,

That he could detect a fatal defect
In the bill of indictment found;
That the phrase *vi et armis* implies
Activity in strenuous forms,
And one could never do nothing at all,
And do it with *force and arms.*

Besides, beyond a reasonable doubt,
'Twas shown to be a fact,
That he'd once wrought, and had been caught
Committing the overt act;
That once, in a weedy potato patch,
A witness did avow,
Tho' much surprised, he recognized
The prisoner using a plow.
When well we know "The Man with the Hoe"
Is praised in terms sublime,
Pray why and how should the man with the plow
Be stigmatized with crime?
Where is our boasted freedom, pray,
Of which the poets sing,
When a man is placed behind the bars,
When he hasn't done a single thing?

But the Jury found defendant bound,
And the honorable Court decreed
That against the dignity of the state
He was guilty of the deed;

The deed of doing nothing at all,
When the indictment did concede
He had broke the laws, simply because
He had done no sort of a deed.

Most solemnly the Court adjudged,
If birds can sing and won't,
They yet must sing, as the larks in spring,
And be punished if they don't.
The honorable Court pronounced his doom,
A heavy fine imposed,
With "force and arms" he must work it out;
And so the case was closed.

The prisoner solemnly wended his way,
Shackled with ball and chain,
And as he went he gave free vent
To the following sad refrain:
"O, Adam and Eve, Adam and Eve,
What a debt to us you owe,
O, why did you make that fatal mistake,
In Eden so long ago?
If you, as you should, had just been good,
Been worshipping at the kirk,
And had just let be the old apple tree,
There were no such a thing as work."

Per Tout et Non per My

A HUSBAND and wife once purchased a fee,
And invited another to join;
The deed was made to the vendees three,
Each paying a third of the coin:
The land was sold, a profit was made,
But when they came to divide,
The third party said, although he had paid
But a third of the price of the "hide,"
He would have to insist, on his lawyer's advice, —
As the law was perfectly plain, —
On having at least one-half of the price,
And an equal share of the gain.
He quoted the rule — exceptions none —
And the law they couldn't ignore,
How baron and femme in law were one,
And they never could be any more;
And how they were simply seised *per tout*,
And to him it was perfectly plain,
That the only thing that they could do
Was to cut the estate in twain.
The baron was mad, but clearly saw
That nothing else could be done,

So he roundly swore at the Common Law
For making a pair but one.
But the other one says the law is a gem,
As he goeth about in quest
Of another guileless baron and femme,
With wealth they want to invest;
He indulges himself in a dry little laugh,
And says, as he slily winks,
The law that can change a third to a half
Is a pretty good law, *he* thinks.

A "Breach of the Peas"

The State v. *Oscar Neal*, 120 N. C. 613.

What, all my pretty chickens and their dam
At one fell swoop? — MACBETH

IN Carolina, the old North State,
From the record it appears,
There dwelt defendant, Oscar Neal,
A youth of tender years;
And close beside his father's home,
A home where sweet content
And peace of mind and quiet reigned,
Another pitched his tent.
The neighbors dwelt on friendly terms,
There was nor broil nor strife,
In an atmosphere Arcadian,
They lived the simple life.
The dogs and cats were friendly too,
The chickens often strayed
Across the line and in both yards
The little children played.

But Oscar's father, one spring day,
('Tis thus Fate oft decrees,)
Beside his neighbor's backyard fence,
Planted a patch of peas.

The neighbor's gallinaceous brood,
The "tame, villatic fowl,"
As Milton styles the poultry tribe.
Began to stray and strowl;
And, having predilections for
The patch of planted peas,
The golden opportunity
They chose at once to seize;
They flew the fence, and gathered in
The patch of peas in glee,
And when the fun and frolic ceased,
There was not left a pea.

Now, Oscar was impetuous,
Much like his great namesake,
The fiery son of Ossian, when
The demon's once awake;
And hence, when he the ruin saw,
And the damage that was done,
His fury exceeded the rage and wrath
Of Ossian's famous son;
And, breathing vengeance 'gainst the fowls,
Despite his youthful age,
He swiftly swept to his revenge,
With an Othello's rage.
Espying one of the thieving tribe,
He advanced on it apace;

The chicken beat a quick retreat,
And Oscar gave it chase:
As Hector from Achilles fled
Around the walls of Troy,
So fled the frightened chicken from
The infuriated boy;
Across and o'er adjoining lots,
The ground with feathers strewed,
Thro' weeds and cane rushed on the twain,
Pursuer and pursued;
The chicken sought a refuge in
A friendly brush-pile near,
But Oscar pulled the pullet out,
Now terrorized with fear;
Mercy and pity now were fled,
Revenge was in his heart,
And placing a foot upon its head,
The pullet was pulled apart:
As Nero, consul then of Rome,
When Hasdrubal he slew,
Into the camp of Hannibal,
The bleeding head he threw,
So bloody-minded Oscar showed
Maliciousness prepense,
By hurling the headless chicken o'er
His neighbor's back-yard fence.

Then spying another chicken near,
(It looked pea-green to him),
In rage relentless, Oscar swore
He'd tear it limb from limb;
As soon as found, he chased it round,
Denouncing it meanwhile,
Until the frightened fowl dodged in
Another near brush-pile;
With sharpened stick, he jabbed and stabbed,
And pierced it thro' and thro',
And then impaled upon a spear,
He held it up to view:
Before his neighbor's dwelling place,
Exulting o'er his foe,
In savage triumph Oscar marched,
Parading to and fro,
As proud as a Roman conqueror,
Returning victorious home,
In trophied triumph, marching thro'
The garish streets of Rome.

He then saw other "villatic fowls"—
One was a mother dear,
Hovering fondly o'er her brood,
Now paralyzed with fear;
Like Nemesis, he madly rushed
'Pon mother and frightened chicks,

And soon a score were ferried o'er
The chicken River Styx.
Retaliation and revenge
Now rankled in his breast,
His blood was up — he vowed a vow:
Gallina delenda est;
He strewed the ground with headless fowls,
His fury unrestrained,
Until nor hen nor rooster proud,
Nor chickling wee remained.

Like Alexander, then he sighed,
Because he saw nowhere
A predatory pullet or
Marauding rooster near;
No other gallinaceous worlds
Remained for him to fight,
To satisfy his savage soul,
Or glut his appetite.

The law took hold of Oscar Neal,
And indicted him because
He'd cruelly killed his neighbor's fowls,
Against existing laws;
Against the peace and dignity
Of the State — so read the bill —
Maliciously and wilfully
He did the chickens kill.

In Court young Oscar pleaded all
The pleas known to the law;
He took advantage of every slip,
Of every fault or flaw;
He fought the case with stubborn will
Thro' each successive court,
From the court of Robert Shallow to
The court of last resort;
He showed that he himself was made
The victim of *fowl-play*,
That 'twas his neighbor's chickens, and
Not he, that went astray;
That he himself was innocent,
This he could show with ease,
And that the gallinaceous tribe
Themselves had "breached the peas";
That in the devastation done,
The *modus operandi*
Showed that the ruin had been wrought,
Animo furandi;
That, if *fowl*-means had not been used,
There'd been no breach of laws,
And hence, of all the damage done
The chickens were the cause.
But the Court convicted Oscar Neal,
O'erruling all his pleas,

Denying his right to kill the fowls,
Tho' they'd destroyed the peas;
They held the conduct of the fowls
Was vicious as the dickens,
And yet quite clear it did appear
That they were *peas-full* chickens;
They held defendant had no right,
In sudden heat and passion,
To beat to death his neighbor's fowls
In such a cruel fashion;
That if a chicken must be killed,
The law the guide must be,
And, as a guiding precedent,
The Court would thus decree:
The legal way to kill a fowl
Is the following, to wit:
In kindness and in gentleness,
Death must be dealt to it;
The killer must confute and meet
Th' indictments charging writ
With the proven plea of *molliter*
Manus imposuit.

Ezekiel's Plea

WELL, Ezekiel," said the Court,
"It appears from the report,
Which the jury of the county
have returned,
That not only do you sigh
For the chicken roost close by,
But the way to it you actually have learned.
'Tis the policy of the law,
So that there may be no flaw
In proceedings of a criminal import,
To request the accused to plead
Whether guilty of the deed,
So, Ezekiel, you may now address the Court."

"Well, yo' Honah," said old Zeke,
As he slowly rose to speak,
"I wants ter tell you all about de case,
An' old Zeke will take de pledge
All de trufe to tell de jedge,
An' to speak it to de jury face to face:
Zi wuz listenin' t'other day
To ole Miss, I heahs her say,

Dat a lady in society standin' high,
While a shoppin' in de town,
When no clerks dey wuz aroun',
She jes lif' a diamond ring she nebber buy;
An' moreover, say ole Miss,
Dey don' prosecute foh this,
Foh de lady am a kelptomaniac,
Meanin' dat about sich things
As fine jewelry an' rings,
She is crazy an' not guilty — dat's a fac'.
It am true ole Zeke did creep,
While de ownah wuz asleep,
To de chicken roos' (dat lodestone to de black),
An' a pullet dar he lif',
But you'll find when proofs you sif',
As to chickens Zeke's a kelptomaniac."

De Rivafonoli *vs.* Corsetti

4 *Paige Ch.* 462.

Quaelibet Jurisdictio cancellos suos habet.

THE defendant agreed, as the record we read
In Paige's report of the case,
That he would appear and sing for the year,
At complainant's opera place;
To the Gothamite he would give delight,
In the soft Italian tongue,
He would warble and sing any musical thing
That ever another had sung;
In opera grand, or the comical brand,
Or in oratorio,
He would sing with a trill and a rapturous thrill,
In the role of *primo basso.*
But being induced by the *wanderlust,*
He couldn't resist the appeals
Of a fidgety notion to cross the blue ocean
To the Queen of the fair Antilles.
Now, when this he heard, complainant demurred,
Because, if the wizard of song
Should Gotham forsake, he would certainly take
His baritone voice along.

Then vision arose — as the records disclose, —
In Rivafonoli's brain,
Of shekels galore — lost to him evermore, —
If he couldn't Corsetti restrain.
So, with the intent to try to prevent
The song-bird taking the wing,
He filed a bill to make him fulfill
His agreement to warble and sing;
And he furthermore pray'd that an order be made
To keep the defendant in place—
In other words, that a *ne exeat*
Should issue at once in the case.

Now, the Chancellor that at the hearing sat,
Realized the grave import
Of the questions involv'd that had to be solv'd
By a wholly unprejudiced Court.
He said 'twould appear to be very clear
That complainant would have the right
To obtain a decree that Corsetti
Should act and sing and recite;
But, under the law, he plainly saw
How difficult it would be,
With the full support of the Chancery Court,
To enforce the Court's decree;
For he very much feared, if the case were referred
To the Master to ascertain

If defendant, in fact, was breaching the pact,
Such reference would be in vain;
The auricular nerve, the Court would observe,
Of a Master in Chancery,
Is not attuned so as that he would know
A major from a minor key,
And he couldn't detect a glaring defect,
If before him defendant should sing,
Nor tell, without doubt, if his voice gave out
Just the right sort of musical ring;
Moreover, 'twas true that the Master knew
Naught at all of the Italian tongue,
And he never would know in what lingo
The opera grand was sung.

As a general thing, if a bird can sing,
It must — was the gist of the bill,
But the Court said he couldn't pass a decree
That could force it against its will:
And he said 'twas clear that the Court would err,
And commit a most grievous wrong,
If it should decree that Corsetti
Should sing any kind of a song;
For it was well known that the great baritone
Couldn't warble a single note,
When feeling irate, with the Court's mandate
Cross-wise in his musical throat.

Since it would appear that the Fall of the year
Was the time in the contract set
For Corsetti to act — and it was a fact
That the time hadn't come as yet,
The Court said that he would have to decree
That there was no right to sue,
When there wasn't a sign of frost on the vine,
Nor a drop of the Autumn dew.
"There must be a limit to a bill *quia timet*,"
Said the Court, "and it's very clear
That it can't be maintained nor Corsetti restrained
In the case which the Court has here;
And it is held that a *ne exeat*
The Court can never allow,
When complainant can cite no duty or right
That can be enforced right now;
And suppose there should be a final decree
That the agreement, its purpose and aim,
Must be carried through, agreeably to
The *tenor* controlling the same,
It would be absurd to make the song-bird
Execute the contract, we trow,
In its true *tenor* when, Corsetti, we ken,
Sings only the deep *basso*."

So the bill, as it ought, was held for naught,
As the record of the case reveals,

And the song-bird flew o'er the ocean blue
To the Queen of the fair Antilles;
And Rivafonoli saw plainly the folly,
As appears from Paige's report,
Of trying such a thing as to make a bird sing
By decree of the Chancery Court.

In re Goose

N. and K. R. v. *Davis*, 78 S. W. Rep. 1050.

THE plaintiff owned a flock of geese,
And often they would roam
Abroad to glean in fields of green,
And woodlands far from home.
So one bright day they stray'd away,
And ere they would turn back,
They would explore the forage o'er
Upon the railroad track.
Just as upon the track they came,
As the plaintiff's evidence show'd,
With speed uncheck'd, a train direct
Was sweeping down the road;
Each of the flock stood like a rock,
As much as if to say:
"Now, do your worst, we were here first,
And have the right of way."
But the coming train swept on amain,
Like a fiery demon loose, —
The air was fill'd with maim'd and killed —
With feathers and with goose.

The sad decease of plaintiff's geese
Brought on a bitter suit,
And the Court august had to adjust
The matters in dispute.
The plaintiff show'd defendant road
Had no *lookout ahead*,
The law defied — no *brakes applied*,
As the train swift onward sped;
He said 'twas true no *whistle blew*,
When the danger they foresaw,
And that said road ignored the Code,
And wantonly broke the law;
For by the Code each separate road
Said safeguards must not lack,
When *persons* or when *animals*
Appeared upon the track.

Defendant road then plainly showed,
Ere the accident befell,
The whistle blew both loud and true,
And the trainmen rang the bell.
The road denied the law applied
To flocks of wandering geese,
Or that the laws made it the cause
Of the geese's sad decease;
And, furthermore, the road would plead
As a complete defense,

The geese themselves were guilty of
The grossest negligence;
For ev'rywhere (it did aver)
Th' authorities all agree,
In any case, to *act the goose*
Is negligence *per se*.

As the record shows, the point arose
As to whether it was true,
That *person* would a *goose* include
Within the law's purview,
The Court opined, and so did find,
That a *person* is oft a goose,
But to construe the converse true,
Would be without excuse.

Next in the suit, rose in dispute
The point made by the road,
That *goose* was not an *animal*
As used in Shannon's Code;
That should the word include a goose,
'Twould likewise take in all
The little birds, the busy bees,
And all that creep or crawl;
'Twas so absurd, the Judges fear'd
The law they'd slightly strain,

If they should hold for such as these
Defendant must stop the train.

As 'twould appear, the Court somewhere
The meaning must confine,
They all agreed, and so decreed
At *goose* they'd draw the line.
And solemnly the Court then held
Defendant should go hence,—
That *goose* was not an animal,
In the statutory sense.

'Tis said when plaintiff realized
Not only he'd lost the flock,
But likewise lost the fees and cost,—
He suddenly felt a shock:
And, furthermore, thinking it o'er,
As he paid his hard-earned pelf,
In one respect, he did detect
That he was a goose himself!

Osculatory Assault

Fuller v. *State.*, 72 S. W. Rep. 184.

THE Court down in the Lone Star State
Defendant Fuller cited
To appear and plead as to a deed
For which he was indicted.
A maiden fair did roundly swear,
(It was a grievous matter),
That the defendant puckered up
His lips and smacked them at her;
And, furthermore, the maiden swore
He made the sign of kissing,
Tho' what that meant, — or the intent —
The proof thereof was missing.
Fuller obeyed the summons made,
And 'gainst the charge defended
Upon the ground it would be found
There was no crime intended.
The proof as made was duly weighed,
As it nowhere conflicted,
The Court below — the records show —
Defendant quick convicted;

Convicted of a base assault,
And the Court adjudicated
That the offense — because prepense —
Was greatly aggravated.

Now the decree — especially
The punishment attendant —
Was not at all what one would call
Agreeable to defendant;
The blow it dealt was keenly felt,
(He could not help but feel it),
And, therefore, he, most naturally,
Decided to appeal it.
Before the Court of last resort,
For its consideration,
The case was brought, and earnest thought
Indulged on osculation.
The Court divined that it must find
That Fuller be acquitted,
Unless 'twas shown a battery could
Have really been committed;
It held the prisoner at the bar,
When the puckered lips were smacking,
And when, in fine, the kissing sign
Was in no manner lacking,
Was held at bay four feet away,
And, tho' he aimed them at her,

The puckered lips and kissing sign
  Could not the maiden batter;
That lips, tho' puckered e'er so much,
  Must have their limitation,
And, when, in fact, there's no contact,
  There's not an osculation;
That what was called the kissing sign,
  Tho' with presumption laden,
Was but a buss *in nubibus*
  And could not reach the maiden;
That, while indeed 'twould be decreed
  That Fuller be acquitted,
The Court yet saw another law,
  For which the case was fitted;
To substitute a mere salute,
  Or puckered lips for kissing,
Showed but too plain that in the brain
  Was something surely missing;
As, if you'd see a honey bee
  Go circling 'round the bower,
With smacking lips, as if it sips
  The nectar from the flower —
But never goes e'en near the rose,
  But seems, in fact, contented
To buzz about — you'd say no doubt,
  That bee must be demented.

The Court could but remand the case,
With proper *procedendo*,
To grant the writ, most fit, to wit:
De Lunatico Inquirendo.

The Jury

FROM our forebears, the rolling years
Have brought us, we admit,
Some things which are unto the bar
Of lasting benefit;
But 'mongst the things bequeathed to us
Are some we must condemn,
As not just what we should have got —
And the jury is one of them.
Sometimes we find we are inclin'd
To think that juries are
Simply devised to tantalize
The members of the bar;
They are enigmas to us all,
And oftentimes, methinks,
As puzzling and mysterious as
The riddle of the Sphinx.
To see them sitting in the box,
With bland and child-like smile,
They seem to be entirely free
From anything like guile;
They appear to be men actually
In whom we may confide,

And face to face examine the case —
Especially our own side;
They look so kind, we are inclined
To think each one a friend,
And hence disclose our client's woes
And the wrongs as they impend;
Then we relate how cruel Fate
Our client has pursued,
And our belief they'll give relief,
When the facts they have review'd;
We show they must in no wise trust
The other side a whit,
And warn them 'gainst their lawyer's wiles,
As from a dangerous pit;
But after all the confidence
And trust in them reposed,
And after we most carefully
The pitfalls have exposed,
They straightway make a grave mistake, —
Just one of their usual kind —
As they, (despite we're in the right),
An adverse verdict find.

On occasions we a juror see,
And form th' opinion then,
That here's a soul who can control
The other eleven men;

'Tis our desire him to inspire
And deeply to impress,
And hence, with vim, devote to him
The most of our address;
At him we thunder law and facts,
Which should hold him enrapt,
But strange! just then, the moment when
The climax we have capp'd,
In him we spy a drooping eye,
And then there comes to view
(A dread and most portentous sign)
A smother'd yawn or two.
We plainly see that there's to be
A tilt with the slumber-god,
And we must fight to keep this wight
Out of the land of Nod;
We know we'll meet with sure defeat,
Unless we manage to keep —
And that at once — this witless dunce
And dolt from going to sleep;
We fulminate, gesticulate,
All sorts of noise we make,
The desk we bang, while we harangue
To keep this man awake:
But strange! the more we rant and roar,
The more we shout and whoop,

The faster come the nods and yawns,
The more the eye-lids droop, —
'Tis all in vain — dull drowsiness
And languor o'er him creep, —
The god of slumber wins the case —
The juror's fast asleep.
Of what avail is eloquence,
Or knowledge of the law,
Or argument that's evident
Without a fleck or flaw?
When Morpheus waves his leaden wand,
Then law and facts give way,
And the drowsy, dull and dozy god,
Laden with dreams from the land of Nod,
Holds universal sway.

Sometimes a juror we perceive,
Who acts in such a way,
He seems intent on everything,
Which we may have to say;
He seems to give attention to
Each argument advanc'd,
And keeps his eye upon us fix'd,
And if he were entranc'd;
And we conclude his attitude
Toward us doth attest

And goes to show conclusively
How deeply he's impressed;
You may surmise our great surprise,
When he is heard to say,
The reason why he kept his eye
Upon us in that way,
Was our address did so digress,
It was both *pro* and *con*,
He strained his eye and fagg'd his brain,
Trying in vain, to ascertain
Which side 'twas we were on.

. . . . . .

When with reports, text-books and courts
The lawyer's toil is o'er,
And he has passed to his reward
Upon the other shore,
He need not see the jasper walls,
Nor yet need he behold
The crystal sea or gates of pearl,
Nor tread the streets of gold,
To know that he's in Paradise,
For that fact will appear,
When, as he pleased the scene surveys,
His eyes shall on this legend gaze:
"There are no juries here."

Afterthought

WE TRUST each member of the bar,
Who may have struggled thro' thus far,
Has found — his struggles not in vain —
Somewhat to please and entertain;
Some jests or fancies to beguile
The time, with here and there a smile;
And, tho' these lines may trifles be,
Like flotsam floating on the sea,
Or jetsam from the ship cast o'er,
Drifting with the tide ashore,
Yet know we "nonsense now and then
Is relished by the wisest men";
And, therefore, whosoe'er has read
The nonsense o'er these pages spread,
And relished it — we clearly ken —
Has gained an honored station then
Among the very wisest men.

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